IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 13335 of 1994

Between:

1 Desireddy Kesava Reddy S/o.Venkatappa Reddy
Sathupally Khammam Dist
2 Mrs.Desireddy Vani W/o.Kesava Reddy
Sathupally Khammam Dist
3 Vellanki Adinarayana S/o.Kistaiah
Lingapallem Khammam Dist
4 Ganta Seetharamaiah S/o.Kanakaiah
Lingapallem Khammam Dist

..... PETITIONER(S)

AND

1 Chief Engineer Minor Irrigation, Hyderabad
2 State of Andhra Pradesh rep. by the Secretary
Irrigation Commandant Area Development Hyderabad
3 Accountant General Andhra Pradesh, Hyderabad
4 Union of India rep. by the Cabinet Secretary
Secretariat, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to exercise its extra ordinary jurisdiction under Art.226 and quash the orders of the 2nd respondent's memo No.42683/Irr.IV.2/93.4, Dt.5/2/94 declaring the interference of the Union of India through the Hon'ble Minister for power as evidenced by the letter Dt.28/2/94 addressed to the 1st respondent, unconstitutional.

Counsel for the Petitioner: MS.S.TRIPURA SUNDARI

Counsel for the Respondents 1 and 2: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

ORDER:

This Writ Petition is filed, questioning the proceedings issued in Memo No. 42683/Irr.IV.2/93-4, dated 5-2-1994.

The said memo is issued in relation to minor irrigation works of Baithupalli Flood Flow in Vemsoor and Sathupalli Mandals of Khammam District. Earlier, instructions were issued in Government Memo dated 8-9-1993 with regard to alignment of works relating to the said irrigation project. Subsequently, the said instructions are withdrawn by Memo dated 5-2-1994.

It is the case of the petitioner that if the works are taken up by maintaining original alignment, it will heavily burden the exchequer of the Government.

On the other hand, it is submitted by the learned Government Pleader for Irrigation and Command Area Development that pursuant to the impugned proceedings, works have already been completed by maintaining the existing alignment.

With regard to alignment of irrigation works, it is for the administrative and technical authorities to plan the same, having regard to the technical feasibility and financial aspects in the matter, and, the same cannot be the subject matter of enquiry in a petition filed under Article 226 of the Constitution

of India. In any event, it is the submission of the learned Government Pleader that the works have already been executed, and as such, the petitioner cannot seek any relief at this stage. In that view of the matter, the Writ Petition is devoid of merits.

The Writ Petition is accordingly dismissed. No costs.

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JUSTICE R. SUBHASH REDDY

DATED: 07-12-2004

Asp/Msnr.

1 Chief Engineer Minor Irrigation, Hyderabad
2 The Secretary, Government of Andhra Pradesh,
Irrigation Commandant Area Development, A.P.Secretariat,

Hyderabad
3 Accountant General, Andhra Pradesh, Hyderabad
4 The Cabinet Secretary, Union of India,
Central Secretariat, New Delhi

5. Two C.Cs. to the G.P. for Irrigation and Command Area Development, High Court of A.P, Hyderabad (OUT)

6. Two C.D. copies